

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5722 of 1984

Date of decision: 24-7-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

THAKKAR HARIRAM JETHMAL

Versus

STATE OF GUJARAT

Appearance:

MR CH VORA for Petitioners
Mr. N. N. Pandya for Respondent No. 1
MR YS MANKAD for Respondent No. 2

SERVED for Respondent No. 3

SERVED BY AFFIXING for Respondent No. 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/07/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The only contention raised by the learned counsel for the petitioners is that the Tribunal has committed error in making order for eviction of the petitioners from the disputed land. The learned counsel for the petitioners contended that in making order of eviction of the petitioners from the suit land the Tribunal has exceeded its jurisdiction. I do not find any substance in this contention of the learned counsel for the petitioner. It is not in dispute that the land in question has been purchased by the petitioners after coming into force of the Bombay Inams (Kutch Area) Abolition Act, 1958. Both the petitioners are purchasers of the land in question from the tenant and they have no right whatsoever in the land. They have purchased the land, as stated earlier, after coming into force of the aforesaid Act.

2. The Mamlatdar has committed serious illegality in holding that Lohana Mahajan should be given occupancy price and Usman Suleman Samat Sama should be granted occupancy certificate for the disputed land. There was no question of passing order for issuing occupancy certificate in favour of Usman Suleman who has admittedly not deposited the amount as per the provisions. The Tribunal has rightly concluded that the Mamlatdar's order was not in accordance with law. The petitioner Thakker Sunderji Jethmal has rightly been held to be a person in unlawful possession of the land in dispute. The petitioner is liable to be evicted summarily being a person who unauthorisedly holds the land. The counsel for the petitioner has raised too technical objections. When the petitioner was a person holding the land

unauthorisedly, no illegality has been committed by the Tribunal in passing such order in appeal. The substance of the matter is to be considered. In this case substantial justice has been done by the Tribunal and on technical ground this Court will not interfere with the just and reasonable order passed by the Tribunal. It cannot be said that the order passed by the Tribunal has caused any prejudice to the petitioner. The petitioners were unable to make out any of their rights before this Court to continue to hold possession of the land in dispute.

3. In the result the special civil application fails and the same is dismissed. Rule discharged. Interim relief granted earlier by this court stands vacated.

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